

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BARBARA RICHARDS, a single individual,

Plaintiff,

vs.

SAFEWAY, INC., a foreign corporation d/b/a
45106 SAFEWAY and KIMCO REALTY
CORPORATION, a foreign corporation d/b/a
PK I SILVERDALE SHOPPING CENTER,
LLC, and DOES 1 through 5.,

Defendants.

No.

**SAFEWAY INC.'S NOTICE OF
REMOVAL OF ACTION TO 28 U.S.C. §§
1332, 1441 AND 1446**

[REMOVED FROM KITSAP COUNTY
SUPERIOR COURT CAUSE NO. 21-2-
01381-18]

TO: Clerk, U.S. District Court, Western District of Washington at Tacoma;

AND TO: All Counsel of Record.

Defendant Safeway Inc. hereby removes to this Court the state court action described below on the grounds stated herein, and as supported by the Declaration of Kimberly A. Reppart and the exhibits attached thereto.

I. INTRODUCTION & STATEMENT OF FACTS

On September 24, 2021, Plaintiff served defendant Safeway Inc. with a lawsuit captioned

SAFEWAY INC.'S NOTICE OF REMOVAL OF ACTION TO 28 U.S.C. §§ 1332,
1441 AND 1446 – 1
CAUSE NO.

3077570 / 824.0097

FORSBERG & UMLAUF, P.S.
ATTORNEYS AT LAW
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1 in Kitsap County Superior Court entitled *Barbara Richard v. Safeway Inc.*, et al, Declaration of
 2 Kimberly A. Reppart, Exs. 1 and 2.

3 This Notice of Removal is timely under 28 U.S.C. § 1446(b)(1) because it is being filed
 4 "...within thirty days after receipt by the defendant, through service or otherwise, of a copy of the
 5 initial pleading setting forth the claim for relief upon which such action or proceeding is based..."
 6 28 U.S.C. § 1446(b)(1). Plaintiff is claiming more than \$75,000 in damages, as confirmed by
 7 Plaintiff's Response to Request for Statement of Damages documenting Plaintiff's claim for
 8 \$175,000.00 in past medical specials. Reppart Decl., Ex. 4.

9 Plaintiff is a resident of the State of Washington. Reppart Decl., Ex. 2. Safeway Inc. is a
 10 Delaware corporation with headquarters located in Pleasanton, California. Reppart Decl., Ex. 3.
 11 Defendant Kimco Realty Corporation is a Maryland Corporation with a principal place of business
 12 in Jericho, New York. Reppart Decl., Ex. 5. Defendant PK I Silverdale Shopping Center LLC is
 13 a Delaware limited liability company with a principal place of business in Jericho, New York.
 14 Reppart Decl., Ex. 6. All Defendants consent to Removal. Reppart Decl.; Declaration of David
 15 Cottnair.

16 II. BASES FOR REMOVAL

17 A. There is Complete Diversity of Citizenship under 28 USC § 1332.

18 This Court has subject matter jurisdiction over this civil action pursuant to 28 U.S.C. §
 19 1332(a)(1) and (a)(3), and this action is one that can be removed to this Court by Defendant
 20 pursuant to 28 U.S.C. § 1441(b) in that it is a civil action between citizens of different states and
 21 the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

22 The Plaintiff is a resident of Washington State. Reppart Decl., Ex. 2. Defendant Safeway
 23 Inc. is a Delaware corporation with headquarters located in Pleasanton, California. Reppart Decl.,

1 Ex. 3. Defendants Kimco Realty Corporation and PK I Silverdale Shopping Center LLC are
2 Maryland and Delaware entities respectively. Reppart Decl., Exs. 5 and 6. Removal of the
3 Plaintiff's action to this Court is proper because there is complete diversity of citizenship of the
4 parties pursuant to 28 U.S.C. § 1332, and there was complete diversity at the time Plaintiff's
5 lawsuit was served.

6 **B. The Amount in Controversy Exceeds the Jurisdictional Minimum.**

7 Plaintiff indicated in Plaintiff's Response to Defendant's Request for Statement of
8 Damages that she is claiming more than \$75,000. Reppart Decl., Ex. 4. This information is
9 sufficient to conclude that plaintiff seeks to recover in excess of \$75,000 in damages against
10 Defendant.

11 **C. This Notice of Removal is Timely Under 28 USC § 1446(b).**

12 This Notice of Removal is timely under 28 U.S.C. § 1446(b)(1) because it is being filed
13 "...within thirty days after receipt by the defendant, through service or otherwise, of a copy of the
14 initial pleading setting forth the claim for relief upon which such action or proceeding is based..."
15 28 U.S.C. § 1446(b)(1).

16 **D. This Notice of Removal Complies with the Applicable Local Rules, and**
17 **Venue Is Proper in the Western District of Washington under 28 U.S.C. §**
128(b).

18 This Notice of Removal complies with all applicable Federal Rules of Civil Procedure and
19 Local Rules. Defendant has attached to the Declaration of Kimberly Reppart, filed in support of
20 this Notice, copies of all process, pleadings, and orders served upon it in the state court action, as
21 required by 28 U.S.C. § 1446. Venue is proper in this District pursuant to 28 U.S.C. §§ 128(b)
22 and 1391, because this District encompasses Kitsap County, the county listed in the state court
23 complaint served on Defendant.

1 Defendant is serving Plaintiff with copies of this Notice of Removal and the supporting
2 Declaration of Kimberly Reppart (with exhibits).

3 **E. All Defendants Consent to Removal of the Action Pursuant to 28 U.S.C.**
4 **1446(b)(2)(A).**

5 Counsel for Defendant Safeway Inc. confirmed that Defendants Kimco Realty Corporation
6 and PK I Silverdale Shopping Center LLC consent to removal pursuant to 28 U.S.C.
7 1446(b)(2)(A). Reppart Decl.; Declaration of David Cottnair.

8 **III. CONCLUSION**

9 Plaintiff's civil action, originally venued in Kitsap County Superior Court for the State of
10 Washington, may be removed pursuant to 28 U.S.C. 1441 and 1446 to the United States District
11 Court for the Western District of Washington at Tacoma.

12 Dated this 21st day of October, 2021.

13 FORSBERG & UMLAUF, P.S.

14 

15 Kimberly A. Reppart, WSBA #30643
16 901 Fifth Avenue, Suite 1400
17 Seattle, WA 98164
18 Tel: 206-689-8500
Facsimile: 206-689-8501
Email: kreppart@foum.law
Attorney for Defendant Safeway Inc.

13 FORSBERG & UMLAUF, P.S.

14 

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Attorney for Defendant Safeway Inc.

CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the foregoing ***SAFeway INC.'S NOTICE OF REMOVAL OF ACTION TO 28 U.S.C. §§ 1332, 1441 AND 1446*** on the following individuals in the manner indicated:

Ms. Carrie E. Eastman
Sanchez, Mitchell, Eastman & Cure, PSC
4110 Kitsap Way, Suite 200
Bremerton, WA 98312-2401

(X) Via ECF and Email: cee@spinnakerbldg.com

Mr. David S. Cottnair
Preg O'Donnell & Gillett
901 Fifth Avenue, Suite 3400
Seattle, WA 98164

(X) Via ECF and Email:
dcottnair@pregodonnell.com

SIGNED this 21st day of October, 2021, at Seattle, Washington.

/s/ Erin D. Gray
Erin D. Gray